

Appl. No. 10/622,668  
Reply to Office Action of June 1, 2006

Attorney Docket No. FSF-031391

### **REMARKS**

Claims 1 and 17 are amended by incorporating the subject matter recited in claim 2. Claims 2, 4, 6, 8, 10 and 12 are cancelled.

Claims 1, 3, 5, 7, 9, 11 and 13-17 are currently pending in the application.

#### **I. Response to the claim rejection under 35 U.S.C. § 112**

On page 2 of the Office Action, in paragraph 4, claims 1-17 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. On page 3 of the Office Action, in paragraph 6, claims 1-17 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

These rejections are no longer applicable as a result of the amendment of claims 1 and 17 providing a clearer definition of "dye".

#### **II. Rejection over Cerquone**

On page 3 of the Office Action, in paragraph 9, claims 1 and 17 have been rejected under 35 U.S.C. § 102(b) as anticipated by, or, in the alternative, under 35 U.S.C. § 103(a) as being obvious over Cerquone, et al. (U.S. Patent No. 4,021,240, hereinafter "Cerquone"). The rejection over Cerquone has become moot since the subject matter of claim 2, which was not rejected over Cerquone, has been incorporated in independent claims 1 and 17.

#### **III. Rejection over EP'310**

On page 4 of the Office Action, in paragraph 10, claims 1-17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over EP 1096310 (EP '310).

Appl. No. 10/622,668  
Reply to Office Action of June 1, 2006

Attorney Docket No. FSF-031391

Since the present application is now a continuation-in-part of US Patent Application Serial No. 09/695,864, filed on October 26, 2000, EP '310 which was published on February 26, 2004 is no longer considered as prior art to the present application. Accordingly, Applicant respectfully requests withdrawal of the obviousness rejection of claims 1-17 over EP '310.


#### IV. Double patenting rejection

In response to the provisional obviousness-type double patenting rejection, a terminal disclaimer is hereby submitted with respect to copending U.S. Patent Application No. 10/635,540.

#### V. Conclusion

In view of the foregoing amendments and remarks, it is respectfully submitted that all of the claims currently pending in the application are in condition for allowance; early and favorable action are respectfully requested.

Respectfully submitted,

  
Margaret A. Burke  
Reg. No. 34,474

Taiyo, Nakajima & Kato  
401 Holland Lane, Suite 407  
Alexandria, VA 22314  
(703) 838-8013  
November 29, 2006